

BEFORE THE BOARD OF REAL ESTATE APPRAISERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC HEARING
amendment of ARM 24.207.401 fees,)	ON PROPOSED AMENDMENT
24.207.501, 24.207.502,)	AND ADOPTION
24.207.504, 24.207.505,)	
24.207.506, 24.207.507,)	
24.207.509, 24.207.515 and)	
24.207.516 licensing, and)	
24.207.2101 continuing education,)	
and the proposed adoption of)	
NEW RULE I renewals)	

TO: All Concerned Persons

1. On February 8, 2006, at 10:00 a.m., a public hearing will be held in room 489 of the Park Avenue Building, 301 South Park Avenue, Helena, Montana to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (Department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or who need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Real Estate Appraisers (Board) no later than 5:00 p.m., February 1, 2006, to advise us of the nature of the accommodation you need. Please contact Barb McAlmond, Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2325; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2323; e-mail dlibsrea@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.207.401 FEES (1) remains the same.

~~(2) In addition to the fees charged by the board, examination candidates who sit for an examination must pay a seating fee to cover the cost of administering the examination. The seating fee must be paid by the examination candidate directly to the examination service provider specified by the board. The board will furnish examination candidates with the necessary information regarding the examination, and the contact information for registering with the examination service provider.~~

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-112, 37-54-201, 37-54-202, ~~37-54-210,~~
~~37-54-211,~~ 37-54-212, 37-54-302, 37-54-310, 37-54-403, MCA

REASON: It is reasonable and necessary to amend this rule deleting section (2) because the Board is now contracting with an independent examination entity for the purpose of examination of applicants for licensure. The Board is no longer involved in the administration or facilitation of the examinations. The implementation cites are being amended to delete reference to repealed statutes.

24.207.501 EXAMINATION (1) through (3) remain the same.

~~(4) Applicants for licensure or certification may not retake the examination for six months after having failed it a second or subsequent time.~~

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-202, 37-54-302, ~~37-54-304~~, MCA

REASON: The Board determined it is reasonably necessary to amend this rule because there is no longer any rationale to require applicants to wait to retake the licensure examination. The examination pool of questions is large enough to ensure an applicant will not retake the same examination and thus, the Board is able to assure the public that those applicants who succeed in passing the examination have met the requisite minimum qualifications for competence. Implementation cites are being amended to delete reference to a repealed statute.

24.207.502 APPLICATION REQUIREMENTS (1) through (3) remain the same.

~~(4) The applicant shall provide three appraisal reports of their choice, with three true and correct copies of each.~~

(5) remains the same but is renumbered (4).

~~(6)~~ (5) The applicant shall correct any deficiencies and submit required material. Failure to submit the required material within 60 days of notification of deficiencies shall be treated as a voluntary withdrawal of the application. After voluntary withdrawal, an applicant will be required to submit an entirely new application to begin the process again.

~~(7) All requests for reasonable accommodations under the Americans with Disabilities Act of 1990, at 42 USC 12101, et seq., must be made on forms provided by the board and submitted with the application prior to any application deadline set by the board.~~

(8) remains the same but is renumbered (6).

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-202, MCA

REASON: It is reasonable and necessary to delete section (4) to clarify that the requirement for appraisal reports is a routine part of the application process and is included in the standard application form. The rule is being amended as appraisal reports are not a separate requirement for licensure. The Board is also amending the rule to clarify that the time limit for submission of additional materials begins upon the applicant's notification of application deficiencies by the Board. Section (7) is being deleted because the Board determined that requests for accommodations

in the application process is adequately addressed elsewhere in statute and it is not necessary to duplicate them in rule.

24.207.504 QUALIFYING EDUCATION REQUIREMENTS

(1) through (4)(c) remain the same.

(d) course examinations; and

~~(e) dates of course offerings;~~

~~(f) locations of course offering;~~

~~(g) (e) history of the provider; .~~

~~(h) (5) A passing score requirement of 70% for the course is required.~~

~~(5) (6) The board shall have the authority to deny or revoke its approval of a previously-approved course or course provider for cause.~~

~~(6) (7) Except as otherwise provided in (11), an An applicant must attend a minimum of 90% of the scheduled class hours, complete all required exercises, and achieve a passing score on the course examination in order to receive credit for the course.~~

(7) through (10) remain the same but are renumbered (8) through (11).

~~(11) Credit toward the classroom hour requirement may be awarded to teachers of appraisal courses.~~

~~(12) Qualifying education credit must have been obtained within five years prior to the application date.~~

~~(13) Instructors of the uniform standards of professional appraisal practice (USPAP) course must provide proof to the board by submitting a copy of the current certificate demonstrating that the individual has attended the annual update course provided by the appraisal standards board of the appraisal foundation.~~

(14) remains the same but is renumbered (12).

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-202, MCA

REASON: It is reasonable and necessary to amend this rule to clarify that the Board does not and never has required the submission of dates or locations of qualifying education courses. The Board is amending the rule to specify that the required passing score for qualifying courses is 70%. This is the current required passing score and is not being changed. Section (11) is being deleted to comply with new Appraisers' Qualifications Board (AQB) requirements established for 2008 and the years following. Section (12) is being deleted because inclusion of more than five years education is being mandated by the AQB for the year 2008 and following. Section (13) is being deleted as no longer necessary, since all licensed instructors of the Uniform Standards of Professional Appraisal Practice (USPAP) courses are required to recertify every two years with the Appraisal Foundation in order to be able to teach USPAP.

24.207.505 QUALIFYING EDUCATION REQUIREMENTS FOR LICENSED REAL ESTATE APPRAISERS (1) remains the same.

(2) To upgrade from a trainee to a licensed real estate appraiser, an applicant may use education obtained for licensure as a trainee.

(3) Effective January 1, 2008, applicants for original licensure as a licensed real estate appraiser shall complete at least 150 hours of board approved instruction, 15 hours of which must cover the USPAP as promulgated by the appraisal foundation at the time the educational offering was completed and at least 15 hours of which must cover report writing. Applicants shall demonstrate that their education involves coverage of all topics listed in (1) with particular emphasis on the appraisal of one-unit to four-unit residential properties.

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-202, ~~37-54-203~~, MCA

REASON: It is reasonable and necessary to amend this rule and add new section (2) to address the upgrade of trainees to licensed real estate appraisers and give credit to the education obtained while still a trainee. It is reasonably necessary to add section (3) to address the new AQB requirements established for 2008 and the years following. Implementation cites are being amended to delete reference to a repealed statute.

24.207.506 QUALIFYING EDUCATION REQUIREMENTS FOR RESIDENTIAL CERTIFICATION (1) Applicants for certification as a certified residential real estate ~~appraiser~~ appraisers shall provide evidence of completion of ~~120 classroom hours or board approved instruction~~, 15 hours of which must cover the ~~uniform standards of professional appraisal practice~~ USPAP as promulgated by the appraisal foundation and at least 15 hours of which must cover report writing ~~and which may include the 90 classroom hours required for licensure as a licensed real estate appraiser.~~

(2) remains the same.

(3) To upgrade from a trainee or a licensed real estate appraiser to a certified residential real estate appraiser, an applicant may use education obtained for licensure as a licensed real estate appraiser.

(4) Effective January 1, 2008, applicants for original certification as certified residential real estate appraisers shall provide evidence of completion of:

(a) 200 hours of board approved instruction, 15 hours of which must cover the USPAP as promulgated by the appraisal foundation and at least 15 hours of which must cover report writing; and

(b) 21 semester credit hours covering the subject matter of English composition, principles of economics (micro or macro), finance, algebra, geometry or higher mathematics, statistics, introduction to computers (word processing/spreadsheets), and business or real estate law. In lieu of the required courses, an associate degree will qualify.

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-303, MCA

REASON: It is reasonable and necessary to amend the rule to better clarify the education requirements for residential certification. Section (1) is being amended to address the upgrade of trainees to certified residential real estate appraisers. It is

reasonably necessary to add sections (4) and (5) to address and comply with new AQB requirements beginning in January of 2008.

24.207.507 QUALIFYING EDUCATION REQUIREMENTS FOR GENERAL CERTIFICATION (1) Applicants for certification as a certified general real estate appraiser ~~appraisers~~ shall provide evidence of 180 ~~classroom~~ hours of board approved instruction, 15 hours of which must cover the uniform standards of professional appraisal practice, as promulgated by the appraisal foundation and at least 15 hours of which must cover report writing.

(2) and (3) remain the same.

(4) To upgrade from a trainee, a licensed real estate appraiser or a certified residential real estate appraiser to a certified general real estate appraiser, an appraiser may use education obtained for licensure as a licensed real estate appraiser with the additional 90 hours being obtained from non-residential courses.

(5) remains the same.

(6) Effective January 1, 2008, applicants for certification as a certified general real estate appraiser shall provide evidence of:

(a) 300 hours of board approved instruction, 15 of which must cover the USPAP as promulgated by the appraisal foundation and at least 15 hours of which must cover report writing; and

(b) 30 semester credit hours covering the subject matter courses of English composition, economics (micro or macro), finance, algebra, geometry or higher mathematics, statistics, introduction to computers (word processing/ spreadsheets), business or real estate law and two elective courses in either accounting, geography, agricultural economics, business management, or real estate. In lieu of the required courses, a bachelors degree will qualify.

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-303, MCA

REASON: The Board has determined that it is reasonable and necessary to amend section (4) to address the upgrade from trainee to licensure as a certified general real estate appraiser. Sections (6) and (7) are being added to comply with new AQB requirements to be effective January 1, 2008.

24.207.509 QUALIFYING EXPERIENCE (1) through (6) remain the same.

(7) Qualifying experience must be obtained within five years prior to application date unless otherwise determined by the board.

(8) remains the same.

(9) The board will use the following hourly credit as a guide toward the crediting of experience hours:

(a) single family residential (one unit dwelling)	
(i) complete report <u>assignment</u>	12
(ii) limited report <u>assignment</u>	8
(b) multi-family residential (two-to-four units)	20
(i) <u>complete assignment</u>	<u>20</u>
(ii) <u>limited assignment</u>	<u>10</u>

(c) through (l) remain the same.

(10) Review appraisals will be allowed 1/3 the allotted time found in (9).

~~(40) (11)~~ The board may provide a variance from the hourly standards provided in ~~(8)~~ (9) and (10) above. To be considered for such a variance, an applicant must submit a written request for a variance supported by documentation which demonstrates the need for additional credit hours.

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-202, 37-54-303, MCA

REASON: It is reasonable and necessary to amend section (7) in response to applicant inquiry and to address qualifying experience obtained more than five years prior to the date of application. The Board notes that all experience obtained after 1991 (the first year of licensure for real estate appraisers in Montana) must meet USPAP requirements and standards. It remains the Board's intent to accept only experience measurable by a specific standard. The amendment will allow the Board to examine experience outside the five year time limit and determine acceptability on a case by case basis. Section (9) is being amended to clarify the difference between the requirement of a report and an assignment. Addition of section (10) is necessary to address the difference between an appraisal and a review appraisal, as a review appraisal is neither as extensive nor as labor intensive as a normal appraisal and therefore will be credited fewer experience hours.

24.207.515 INACTIVE LICENSE/CERTIFICATION (1) and (2) remain the same.

~~(3) A licensed or certified appraiser may remain inactive for a period of one year.~~ Inactive licensees must pay their inactive renewal fee annually. Failure to renew the inactive status or become active will result in the lapsing of their license or certification.

AUTH: 37-1-131, 37-1-319, 37-54-105, 37-54-210, 37-54-310, MCA

IMP: 37-1-131, 37-1-319, 37-54-105, 37-54-210, 37-54-310, MCA

REASON: It is reasonable and necessary to amend this rule because licensees on inactive status were confused as to the requirement to pay annual renewal fees. This clarification will hopefully lessen the expiration of licenses due to nonpayment of this fee. Authority and implementation cites are being amended to accurately reflect all statutes implemented through the rule, to provide the complete sources of the Board's rulemaking authority and to delete reference to a repealed statute.

24.207.516 REACTIVATION OF INACTIVE TO ACTIVE LICENSE (1) and (1)(a) remain the same.

~~(b) submit proof of obtaining the required continuing education in accordance with ARM 24.207.2101.~~

AUTH: 37-1-131, 37-1-319, 37-54-105, 37-54-210, 37-54-310, MCA

IMP: 37-1-131, 37-1-319, 37-54-105, 37-54-210, 37-54-310, MCA

REASON: It is reasonable and necessary to amend this rule to remove information that is being included and expanded upon in New Rule I. It is unnecessary and redundant to include the information in both rules. Authority and implementation cites are being amended to accurately reflect all statutes implemented through the rule, to provide the complete sources of the Board's rulemaking authority and to delete reference to a repealed statute.

24.207.2101 CONTINUING EDUCATION (1) Continuing education courses shall be approved according to the criteria of ARM 24.207.504, including application for re-approval after three years ~~except that an examination shall not be required.~~

(2) An examination shall not be required.

(2) and (3) remain the same but are renumbered (3) and (4).

~~(4) (5) Beginning with the March 31, 2003 renewal, licensees, upon every~~ Every other renewal year, licensees shall provide evidence to the board of having completed at least 31 hours of instruction in courses or seminars approved by the board, at least seven hours of which must be ~~related to the national uniform~~ standards of professional appraisal practice USPAP course.

(5) through (9) remain the same but are renumbered (6) through (10).

AUTH: 37-1-131, ~~37-1-306~~, 37-1-319, 37-54-105, 37-54-303, MCA

IMP: 37-1-131, 37-1-306, 37-54-105, ~~37-54-210~~, 37-54-303, 37-54-310, MCA

REASON: It is reasonable and necessary to amend this rule to be in accordance with federal guidelines that require licensee completion of the USPAP course once every 24 months. Authority and implementation cites are being amended to accurately provide the complete sources of the Board's rulemaking authority and to delete reference to a repealed statute.

4. The rule proposed to be adopted provides as follow:

NEW RULE I RENEWALS (1) All active and inactive licensees will be required to renew for a period of one year by March 31.

(2) Renewal forms will be mailed to all real estate licensees at the address of record with the board.

(3) Failure to receive a renewal form does not eliminate the renewal requirement.

(4) At the end of their education cycle, licensees shall complete and submit an education reporting form at the time of renewal.

(5) Incomplete renewal and education reporting forms will not be accepted and will be returned to the licensee. Any form returned to the licensee must be properly completed and resubmitted before the March 31 renewal deadline.

AUTH: 37-1-131, 37-1-319, 37-54-105, MCA

IMP: 37-1-131, 37-1-319, 37-54-105, 37-54-310, MCA

REASON: It is reasonable and necessary to implement New Rule I to clarify renewal requirements for active and inactive licensees. Licensees have expressed confusion and adoption of this rule will provide information on renewal requirements in a clear and more concise format.

5. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted by mail to Barb McAlmond, Board of Real Estate Appraisers, Department of Labor and Industry, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2323, or by e-mail to dlibsdua@mt.gov and must be received no later than 5:00 p.m., February 16, 2006.

6. An electronic copy of this Notice of Public Hearing is available through the Department and Board's site on the World Wide Web at <http://realestateappraiser.mt.gov>, in the Rule Notices section. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Real Estate Appraisers administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2323, e-mailed to dlibsdua@mt.gov or may be made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

9. Lon Mitchell, attorney, has been designated to preside over and conduct this hearing.

BOARD OF REAL ESTATE APPRAISERS
TIM MOORE, CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND
INDUSTRY

Certified to the Secretary of State January 3, 2006